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# Westmoreland's Lawyer Accuses CBS of Twisting the Truth

By M. A. FARBER

The lawyer for General William C. Westmoreland charged yesterday that CBS, in a 1982 documentary, knowingly converted "an honest debate" about enemy strength in South Vietnam in 1967 into the "illusion" of a conspiracy led by the general.

The lawyer, Dan M. Burt, portrayed the the producer of the documentary, George Crile, as an irresponsible, ambitious person who was under pressure to show his talent, and needed a "sensational story."

Mr. Burt made his remarks in a three-hour opening statement to the jury in the \$120 million libel suit by General Westmoreland against CBS and several other defendants.

By means of selective interviews and editing, Mr. Burt said, Mr. Crile and Mike Wallace, the narrator of the documentary, gave the public a distorted, dishonest account of the events, and "shamed and humiliated" General Westmoreland.

## Charts and Film Clips

Mr. Burt, who repeatedly interrupted his statement to refer to large charts and to show film clips on six television sets, said, moreover, that the makers of the documentary knew what they were doing. General Westmoreland, he said, will testify "how he was rattled" by CBS.

After Mr. Burt spoke at the Federal District Court trial in Manhattan, David Boies, a lawyer for CBS, began an opening statement that will continue this morning.

Mr. Boies told the jury that it would conclude that the documentary was "true, accurate, well-reported," and that it was preposterous to call the documentary "made up."

"But I emphasize to you," he said, "that all you have to believe is that CBS believed it to be true."

Mr. Boies said the focus of the program was "less on one part of our Government deceiving another part of our Government than the Government as a whole deceiving the people."

What possible incentive, Mr. Boies asked, did Mike Wallace have to fabricate?

"Here," the lawyer went on, "is a man at the pinnacle of his profession with every broadcast award, more than 10 Emmy's. What is his incentive? And George Crile had no reason either. He was a producer with a bright future at CBS. There is no incentive there, either."

The 90-minute documentary, the first that the 39-year old Mr. Crile produced on his own, was called "The Uncounted Enemy: A Vietnam Deception."

General Westmoreland, who commanded American forces in South Vietnam, contends that he was falsely accused on the program of deceiving President Johnson and the Joint Chiefs of Staff about the size and nature of the enemy in the year before the Tet offensive at the end of January 1968.

Specifically, Mr. Burt accused CBS of saying that General Westmoreland had placed an arbitrary ceiling of 300,000 on enemy forces and that he had suppressed both a purportedly contrary report by his intelligence chief and high figures on enemy infiltration. In addition, CBS accused the general of "engineering a coverup" after Tet, Mr. Burt said.

The trial is expected to last three to four months and to re-examine the conduct of the war as well as procedures used by the news media.

Judge Pierre N. Leval is presiding over the trial in a third-floor courtroom of the United States Court House in Foley Square. The court was packed yesterday with a standing-room-only crowd of spectators and reporters.

## Westmoreland and Wallace

The silver-haired, 70-year old plaintiff, who sat a few feet in front of Mr. Crile and Mr. Wallace, must prove that the supposedly libelous statements on the program were false and, if so, were made with knowledge of their falsity or with "reckless disregard" for whether they were true.

In addition to CBS, Mr. Wallace and Mr. Crile are defendants in the suit, as is a former Central Intelligence Agency analyst named Samuel A. Adams. Mr. Adams served as a paid consultant for the documentary, and appeared on it.

The documentary, like the trial, concerns the events surrounding the preparation in the summer and fall of 1967 of a new intelligence estimate of enemy strength. The official military document in which these figures were recorded is known as an order of battle.

In a 1980 proposal to CBS, Mr. Crile suggested making a "CBS Reports" documentary that would explore an "elaborate conspiracy" by General Westmoreland and others to under-

state the strength of the enemy in the order of battle. The intention of the "conspiracy," according to the proposal, was to bolster optimistic reports that American troops were winning a "war of attrition." The word conspiracy was used 24 times in the 16-page proposal.

At the outset of the eventual documentary, Mr. Wallace, who was also the "chief correspondent" for the program, made this statement:

"The fact is that we Americans were misinformed about the nature and size of the enemy we were facing, and tonight we're going to present evidence of what we have come to believe was a conscious effort — indeed, a conspiracy at the highest levels of American military intelligence — to suppress and alter critical intelligence on the enemy in the year leading up to the Tet offensive."

Noting that Mr. Adams had introduced CBS to the evidence, Mr. Wallace continued:

"What went wrong in Vietnam is still one of the great questions of our recent American experience. We still don't know all the answers. But tonight we shall offer an explanation for one of the great mysteries of the war — why for so long our Government apparently believed, and wanted all of us to believe, that we were winning the war."

Mr. Wallace's remarks, which were shown yesterday to the jury, were based on statements and admissions that appeared later in the program from a half-dozen retired military intelligence officers and from George Allen, who, like Mr. Adams, was a C.I.A. specialist on Vietnam.

These interviewees contended that the military leadership had arbitrarily slashed its enemy strength figures for essentially political reasons.

The program was broadcast on Jan. 23, 1982.

But Mr. Burt told the jury yesterday that it would hear from numerous witnesses that there was no deception in-

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volved in the consideration of various figures for the order of battle.

On the other hand, he said, Ira Klein, a CBS film editor on the documentary, will testify that Mr. Crile "fabricated" the program and that, from the beginning, Mr. Klein complained "time and again" that General Westmoreland was being treated unfairly.

Mr. Burt said that by 1980, four years after Mr. Crile became a producer at CBS, Mr. Crile's superiors thought it was "time Crile did a program of his own."

"Mr. Crile needed a big story," Mr. Burt said, "a sensational story he could do himself." And, Mr. Crile, he said, was eager to be "famous" like Mr. Wallace.

According to Mr. Burt, Mr. Crile used a variety of techniques — answers to hypothetical questions, the combining of multiple events and "mis-editing" — to construct a documentary without foundation, and was fully aware of the "seriousness" of the subject.

The documentary that was commissioned by CBS, Mr. Burt said, "was not the story that Crile was told" before it was finished.

Mr. Burt compared examples of interviews used on the program with excerpts from the "outtakes," or unedited tapes, of 20 hours of interviewing.

In each case, he maintained, the interviewee's views had been misrepresented on the documentary — Mr. Crile had "carefully picked out fragments" to support the thesis of conspiracy by the military.

Mr. Burt showed the jury excerpts from a taped three-hour interview with Walt W. Rostow, President Johnson's special assistant for national security affairs. It was done for the program but not used.

Mr. Boies, who showed some tape from the Rostow interview that Mr. Burt had not, accused Mr. Burt of using the kind of selective editing that Mr. Burt was attributing to CBS.